

AMENDED IN SENATE AUGUST 6, 1997

AMENDED IN SENATE JULY 23, 1997

AMENDED IN SENATE JULY 9, 1997

AMENDED IN ASSEMBLY MAY 27, 1997

AMENDED IN ASSEMBLY MAY 1, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1245

Introduced by Assembly Members Martinez and Bordonaro
(Coauthor: Senator Rosenthal)

February 28, 1997

An act to amend, ~~repeal, and add Sections 3306 and 3440 of,~~
~~and to add Section 3352.5 to Sections 3306 and 3440 of,~~ the
Business and Professions Code, relating to hearing aid
dispensers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1245, as amended, Martinez. Hearing aid dispensers.

(1) Existing law provides procedures for the licensing of
hearing aid dispensers by the Hearing Aid Dispensers
Examining Committee and ~~authorizes the committee to~~
~~adopt regulations for this purpose.~~ Existing law ~~prescribes~~
~~requirements for the issuance of these licenses.~~ Among other
~~things, an applicant is required to pass a written and a~~
~~practical examination compiled at the direction of the~~
~~committee.~~

~~This bill would require the committee to establish, by regulation, education and training standards necessary for the practice of fitting and selling hearing aids that shall be met by individuals in order to take the licensing examination.~~

(2) Existing law provides that ~~the above-described~~ *these* provisions regulating hearing aid dispensers neither license nor prohibit the testing of hearing. However, existing law provides that these provisions apply when testing is conducted by licensed hearing aid dispensers in connection with the fitting and selling of hearing aids.

This bill would, ~~on January 1, 1999, repeal~~ *delete* the above language that provides that the provisions regulating hearing aid dispensers neither license nor prohibit the testing of hearing. The bill would make a conforming change ~~that would become operative on January 1, 1999.~~

~~(3) Existing~~

(2) Existing law defines the “practice of fitting or selling hearing aids.” Existing law makes it a misdemeanor to violate the provisions governing the licensing of hearing aid dispensers.

This bill would permit the conduct of specific hearing tests for purposes of those provisions and would prohibit a hearing aid dispenser from conducting diagnostic hearing tests when conducting tests in connection with the fitting or selling of hearing aids. Because this bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 3306 of the Business and~~
- 2 *SECTION 1. Section 3306 of the Business and*
- 3 *Professions Code is amended to read:*

1 3306. (a) "Practice of fitting or selling hearing aids,"
2 as used in this chapter, means those practices used for the
3 purpose of selection and adaptation of hearing aids,
4 including direct observation of the ear, testing of hearing
5 in connection with the fitting and selling of hearing aids
6 as provided in Section 3440, taking of ear mold
7 impressions, fitting or sale of hearing aids, and any
8 necessary postfitting counseling.

9 The practice of selling hearing aids does not include the
10 act of concluding the transaction by a retail clerk.

11 When any audiometer or other equipment is used in
12 the practice of fitting or selling hearing aids, it shall be
13 kept properly calibrated and in good working condition,
14 and the calibration of ~~such~~ the audiometer or other
15 equipment shall be checked at least annually.

16 (b) A hearing aid dispenser shall not conduct
17 diagnostic hearing tests when conducting tests in
18 connection with the fitting or selling of hearing aids.

19 (c) Hearing tests conducted pursuant to this chapter
20 shall include those that are in compliance with the Food
21 and Drug Administration Guidelines for Hearing Aid
22 Devices and those that are specifically covered in the
23 licensing examination prepared and administered by the
24 Hearing Aid Dispensers Examining Committee.

25 SEC. 2. Section 3440 of the Business and Professions
26 Code is amended to read:

27 3440. ~~This chapter neither licenses nor prohibits the~~
28 ~~testing of hearing.~~ When tests are conducted by persons
29 licensed under this chapter in connection with the fitting
30 and selling of hearing aids, the provisions of this chapter
31 shall apply.

32 ~~Professions Code is amended to read:~~

33 ~~3306. (a) "Practice of fitting or selling hearing aids,"~~
34 ~~as used in this chapter, means those practices used for the~~
35 ~~purpose of selection and adaptation of hearing aids,~~
36 ~~including direct observation of the ear, testing of hearing~~
37 ~~in connection with the fitting and selling of hearing aids~~
38 ~~as provided in Section 3440, taking of ear mold~~
39 ~~impressions, fitting or sale of hearing aids, and any~~
40 ~~necessary postfitting counseling.~~

~~The practice of selling hearing aids does not include the act of concluding the transaction by a retail clerk.~~

~~When any audiometer or other equipment is used in the practice of fitting or selling hearing aids, it shall be kept properly calibrated and in good working condition, and the calibration of such audiometer or other equipment shall be checked at least annually.~~

~~(b) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.~~

~~SEC. 2. Section 3306 is added to the Business and Professions Code, to read:~~

~~3306. (a) "Practice of fitting or selling hearing aids," as used in this chapter, means those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.~~

~~The practice of selling hearing aids does not include the act of concluding the transaction by a retail clerk.~~

~~When any audiometer or other equipment is used in the practice of fitting or selling hearing aids, it shall be kept properly calibrated and in good working condition, and the calibration of the audiometer or other equipment shall be checked at least annually.~~

~~(b) A hearing aid dispenser shall not conduct diagnostic hearing tests when conducting tests in connection with the fitting or selling of hearing aids.~~

~~(c) Hearing tests conducted pursuant to this chapter shall include those that are in compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and those that are specifically covered in the licensing examination prepared and administered by the Hearing Aid Dispensers Examining Committee.~~

~~(d) This section shall become operative on January 1, 1999.~~

~~SEC. 3. Section 3352.5 is added to the Business and Professions Code, to read:~~

1 ~~3352.5. The committee shall establish, by regulation,~~
2 ~~education and training standards necessary for the~~
3 ~~practice of fitting and selling hearing aids that shall be~~
4 ~~met by individuals in order to take the licensing~~
5 ~~examination.~~

6 ~~SEC. 4. Section 3440 of the Business and Professions~~
7 ~~Code is amended to read:~~

8 ~~3440. (a) This chapter neither licenses nor prohibits~~
9 ~~the testing of hearing. When tests are conducted by~~
10 ~~persons licensed under this chapter in connection with~~
11 ~~the fitting and selling of hearing aids, the provisions of this~~
12 ~~chapter shall apply.~~

13 ~~(b) This section shall remain in effect only until~~
14 ~~January 1, 1999, and as of that date is repealed, unless a~~
15 ~~later enacted statute, that is enacted before January 1,~~
16 ~~1999, deletes or extends that date.~~

17 ~~SEC. 5. Section 3440 is added to the Business and~~
18 ~~Professions Code, to read:~~

19 ~~3440. (a) When tests are conducted by persons~~
20 ~~licensed under this chapter in connection with the fitting~~
21 ~~and selling of hearing aids, the provisions of this chapter~~
22 ~~shall apply.~~

23 ~~(b) This section shall become operative on January 1,~~
24 ~~1999.~~

25 ~~SEC. 6.—~~

26 ~~SEC. 3. No reimbursement is required by this act~~
27 ~~pursuant to Section 6 of Article XIII B of the California~~
28 ~~Constitution because the only costs that may be incurred~~
29 ~~by a local agency or school district will be incurred~~
30 ~~because this act creates a new crime or infraction,~~
31 ~~eliminates a crime or infraction, or changes the penalty~~
32 ~~for a crime or infraction, within the meaning of Section~~
33 ~~17556 of the Government Code, or changes the definition~~
34 ~~of a crime within the meaning of Section 6 of Article~~
35 ~~XIII B of the California Constitution.~~

36 ~~Notwithstanding Section 17580 of the Government~~
37 ~~Code, unless otherwise specified, the provisions of this act~~

1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

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